

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

IN THE MATTER OF:

Dylan's Cafe, Inc.	
t/a Hunan Peking	Fact-
3251 Prospect Street, NW	Finding
Retailer CR - ANC-2E	Hearing
License No. 8348	

(License in Extended  
Safekeeping)

June 18, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
MIKE SILVERSTEIN, Member  
JAMES SHORT, Member

P-R-O-C-E-E-D-I-N-G-S

(10:23 a.m.)

CHAIRPERSON MILLER: The next case on our agenda is a Fact-Finding Hearing for Hunan Peking located at 3251 Prospect Street, N.W., License No. 8348, in ANC-2E.

Good morning.

MS. LEFF: Hello.

CHAIRPERSON MILLER: So if you would identify yourself for the record?

MS. LEFF: Yes. My name is Rona Leff and I am an assistant to the managing member. Actually, I think he is the president of Inc. He is out of town, so I'm acting as his agent.

CHAIRPERSON MILLER: Okay. Do you have any authorization letter or anything?

MS. LEFF: No.

CHAIRPERSON MILLER: No? Okay. So this is just a Fact-Finding Hearing, so perhaps you can just give us some facts and we can do that.

1 MS. LEFF: Okay. I did -- yes, I  
2 did bring the -- it's for the license that's  
3 in safekeeping.

4 CHAIRPERSON MILLER: Right.

5 MS. LEFF: We had one party, Cafe  
6 Japone, that was interested and the gentleman,  
7 the owner of that, was diagnosed as having  
8 cancer and so he suspended negotiations. They  
9 now say he is -- that he is okay and that he  
10 will resume negotiations. We have been in  
11 touch with his broker.

12 And we also have a Vietnamese  
13 restaurant that is interested in the space.  
14 I have some documents showing their  
15 correspondence and such.

16 CHAIRPERSON MILLER: Okay.

17 MS. LEFF: Shall I bring them up?

18 CHAIRPERSON MILLER: Someone will  
19 come get it, right? Do you want to go get it?  
20 Okay. Great. Okay. How many copies did you  
21 bring?

22 MS. LEFF: I brought three.

1 CHAIRPERSON MILLER: All right.

2 MS. LEFF: Because last time we  
3 needed one.

4 CHAIRPERSON MILLER: Okay. That's  
5 all right.

6 MS. LEFF: I brought five last  
7 time.

8 CHAIRPERSON MILLER: There are  
9 only four of us, that's not too bad, yes.

10 MS. LEFF: It's a Vietnamese  
11 restaurant, but we have to get a waiver for --  
12 because of a lease provision for a current  
13 tenant to do that lease and we're having some  
14 issue getting that waiver, but we are in  
15 constant communication with the agent for that  
16 would-be-tenant via our broker.

17 And what I have included there is  
18 a Letter of Intent that is not signed, but it  
19 was proffered, and a menu for the restaurant  
20 and their concept information.

21 CHAIRPERSON MILLER: I just want  
22 to recognize Mr. Short has just joined us.

1 Good morning, Mr. Short.

2 MEMBER SHORT: Good morning.

3 CHAIRPERSON MILLER: What did you  
4 say about the waiver?

5 MS. LEFF: We have a current  
6 tenant who, in their lease, has noted that  
7 there cannot be any other Asian restaurants on  
8 the property.

9 CHAIRPERSON MILLER: Oh, okay.

10 MS. LEFF: And this is Vietnamese.  
11 They are Thai, so we are hoping we could --  
12 that they would, you know, be generous.

13 CHAIRPERSON MILLER: Oh, okay.

14 MS. LEFF: And let up on this.

15 CHAIRPERSON MILLER: What's the  
16 name of that restaurant?

17 MS. LEFF: Mai Thai is the current  
18 tenant name.

19 CHAIRPERSON MILLER: Okay. Okay.  
20 Do Board Members have questions?

21 MEMBER ALBERTI: Yes, I do.

22 CHAIRPERSON MILLER: Okay. Mr.

1       Alberti?

2                   MEMBER ALBERTI:   I'm sorry, and  
3       your name again?

4                   MS. LEFF:   My name is Rona, R-O-N-  
5       A Leff, L-E-F-F.

6                   MEMBER ALBERTI:   All right.   Ms.  
7       Leff, first of all, I don't have my records,  
8       our records here, so is this in the Georgetown  
9       Moratorium?

10                  MS. LEFF:   Yes, it is.

11                  MEMBER ALBERTI:   Okay.   All right.  
12       And when did this go into safekeeping?

13                  MS. LEFF:   It went into  
14       safekeeping, well, a number of years ago.   We  
15       have had extreme problems.   It's a second  
16       story space and we have had extreme problems  
17       having someone be interested.

18                  MEMBER ALBERTI:   Five years ago,  
19       10 years ago?

20                  MS. LEFF:   No, not 10.   I think  
21       five.

22                  MEMBER ALBERTI:   Okay.   All right.

1 MS. LEFF: The gentleman that was  
2 there got sick and left immediately, I mean,  
3 within like a month. And so we didn't have  
4 any time to really prepare. In that period,  
5 we did have one very interested restaurant,  
6 but they needed more seats. They needed, I  
7 think it was, 10 more seats and there was a  
8 problem getting that and so they couldn't make  
9 the business plan work and so they bowed out.

10 MEMBER ALBERTI: Ms. Leff, I was  
11 just notified and the Board will have to  
12 discuss this, that our records show that it is  
13 not in the Moratorium Zone. So that's --

14 MS. LEFF: No, we're in the  
15 Moratorium Zone.

16 MEMBER ALBERTI: Okay. Well,  
17 we're going to have to --

18 MS. LEFF: Okay.

19 MEMBER ALBERTI: The Board will  
20 have to discuss that. I'm not saying you are  
21 wrong, I just --

22 MS. LEFF: Okay. Yes.

1                   MEMBER ALBERTI:  -- we just need  
2                   to look to verify that.

3                   MS. LEFF:  Yes, 3251, yes.

4                   MEMBER ALBERTI:  All right.  All  
5                   right.  Gotcha.  So that -- all right.  So you  
6                   are -- the person, the owner of Cafe Japone,  
7                   is that the person who is going to open the  
8                   Vietnamese restaurant or is that --

9                   MS. LEFF:  No.

10                  MEMBER ALBERTI:  -- someone else?

11                  MS. LEFF:  That is a separate  
12                  person.

13                  MEMBER ALBERTI:  That is a  
14                  separate negotiation?

15                  MS. LEFF:  And he was very gung-ho  
16                  and then when he got sick, it was kind of  
17                  stalled.  You know, we kept looking.

18                  MEMBER ALBERTI:  Okay.  All right.  
19                  Thank you very much.

20                  CHAIRPERSON MILLER:  Okay.  
21                  Others?  Okay.  Anything else you want to tell  
22                  us?



1                   MEMBER ALBERTI: I think we need  
2 to speak, talk about this one because --

3                   CHAIRPERSON MILLER: Now?

4                   MEMBER ALBERTI: Well, we don't  
5 know what our records are and I can't make a  
6 decision. I mean, we don't know what the  
7 record says about whether it's in a  
8 Moratorium, when it went to safekeeping.

9                   CHAIRPERSON MILLER: Okay.

10                  MEMBER ALBERTI: And I think all  
11 of that plays into our decision and I think we  
12 ought to check that out.

13                  CHAIRPERSON MILLER: All right.  
14 We can take this under advisement then,  
15 because we don't have the owner here even. I  
16 mean, I don't think that -- I'm not prepared  
17 to --

18                  MEMBER ALBERTI: Okay. Fine,  
19 fine.

20                  CHAIRPERSON MILLER: -- take any  
21 action.

22                  MEMBER ALBERTI: Very good.

1 CHAIRPERSON MILLER: Is that all  
2 right with Board Members, we take this under  
3 advisement?

4 MEMBER BROOKS: Um-hum.

5 MEMBER ALBERTI: I think we  
6 should. I think we should.

7 CHAIRPERSON MILLER: Okay.

8 MEMBER ALBERTI: Well, I would  
9 rather do it otherwise, but that's fine with  
10 me.

11 CHAIRPERSON MILLER: Where is the  
12 owner?

13 MS. LEFF: He is out of town. He  
14 is in Wyoming.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER BROOKS: He was here  
17 before?

18 MS. LEFF: Yes, he was here.

19 CHAIRPERSON MILLER: Yes.

20 MS. LEFF: Yes, at the previous  
21 hearing.

22 MEMBER BROOKS: Okay. And you are

1 not sure how long it has been in safekeeping?

2 MS. LEFF: Let me just see when.

3 I think it is five or six years.

4 MEMBER BROOKS: Five or six years.

5 MS. LEFF: I know that it is not  
6 10 years, because I have not worked here that  
7 long. And I was her when it went into  
8 safekeeping.

9 MEMBER BROOKS: Well, six years is  
10 a long time also, other than 10 years.

11 MS. LEFF: It's a hard space.  
12 It's really a hard space, I have to say.

13 MEMBER BROOKS: And there are no  
14 other uses other than a restaurant for that  
15 space?

16 MS. LEFF: Well, we have  
17 entertained someone who wanted to do a kid's  
18 playground. I mean, yes, I mean, sure we are  
19 open to uses. Tried to engage someone who  
20 wanted to do a yoga studio. I mean, it's --  
21 certainly a restaurant space is not the only  
22 thing it can be. It needs to be a destination

1 space because of the access.

2 You know, it's set back from the  
3 street and people can't see it easily. The  
4 restaurant that was there did a lot of  
5 delivery, so it wasn't that they were waiting  
6 for business to come to them, walk-ups.

7 CHAIRPERSON MILLER: Let me ask  
8 you this. If you are considering other spaces  
9 then, have you considered letting go of your  
10 alcohol license, your liquor license?

11 MS. LEFF: Well --

12 CHAIRPERSON MILLER: Do you know?

13 MS. LEFF: -- I think it is not  
14 desired, but I also think, you know, it has  
15 been a lot of years without a tenant, so we  
16 try to -- you know, we are trying to be open,  
17 but -- and there are some good restaurant  
18 prospects. I mean, I have -- so I mean, I  
19 think we need to be practical, but we are  
20 pushing hard for a restaurant use.

21 I mean, that license cost a nice  
22 bit and it's a good perk for the property,

1       so --

2                   CHAIRPERSON MILLER:   What do you  
3       think your chances are for getting a tenant in  
4       within the next six months or a lease signed?

5                   MS. LEFF:   I think signed is not  
6       bad.   I mean, these people really were  
7       serious.

8                   CHAIRPERSON MILLER:   The Cafe  
9       Japone?

10                  MS. LEFF:   Cape Japone.   He I  
11       guess sold out of his place on P Street and  
12       then was really looking heartfully, had money  
13       lined up and everything and then got sick.   I  
14       mean, you know, I can't -- but -- and the  
15       other, the Vietnamese restaurant, I think it's  
16       a franchise.   You will see from those -- the  
17       papers that I gave you.   So that person was  
18       very interested.   Nothing else is like it in  
19       D.C.

20                  I have also reached out.   You  
21       know, we are not just waiting for someone to  
22       come out of the blue.   We have reached out and

1 actually there is someone that has a small  
2 place in Adams Morgan who wanted to open a new  
3 concept and he put together a business plan.  
4 It was hard for him to get the money.

5 But I mean, so we are reaching out  
6 to get people knowing that we would probably  
7 have to subsidize him or something like that  
8 in terms of business to get it to work, but at  
9 least trying to really move things forward.  
10 You know, to have an empty space is not great  
11 after all.

12 CHAIRPERSON MILLER: Right,  
13 exactly, right. Okay.

14 MEMBER ALBERTI: Ms. Leff, I'm  
15 trying to get my mind where this is located.

16 MS. LEFF: The space -- do you --  
17 3251 Prospect Street is a mixed-use property.  
18 There is a Morton's Restaurant there and Cafe  
19 Milano --

20 MEMBER ALBERTI: Right.

21 MS. LEFF: -- is there.

22 MEMBER ALBERTI: So is that in the

1 mall at Prospect?

2 MS. LEFF: It's not in the mall.  
3 It's one street north, so it's Prospect  
4 Street. I think you are talking about  
5 Georgetown Park.

6 MEMBER ALBERTI: No, I'm thinking  
7 of the Prospect Place Mall.

8 MS. LEFF: Yes, yes. It used to  
9 be called Georgetown Court.

10 MEMBER ALBERTI: Okay. And what's  
11 it called now?

12 MS. LEFF: It doesn't have a  
13 specific name, but it -- this space we are  
14 speaking about is right on top of Morton's.

15 MEMBER ALBERTI: It's on top of  
16 Morton's?

17 MS. LEFF: Yes.

18 MEMBER ALBERTI: Okay.

19 MS. LEFF: So to get to it, you  
20 have to walk through this little -- it's not  
21 an alley, but it is a little inlet, I mean,  
22 far from the street.

1                   MEMBER ALBERTI: Yes, I've been in  
2                   there before.

3                   MS. LEFF: Yes, and we have now  
4                   changed the stairwell recently, so that it has  
5                   a little bit more view from the street,  
6                   hoping, you know, that that would maybe cause  
7                   a little more interest.

8                   MEMBER ALBERTI: Okay. Great.  
9                   Thank you. That's helpful. Thank you.

10                  CHAIRPERSON MILLER: Okay. I have  
11                  had a request that we, the Board, just take a  
12                  few minutes in closed session. So that's what  
13                  we will do and it won't be for very long, I  
14                  don't believe.

15                  MS. LEFF: Okay.

16                  CHAIRPERSON MILLER: And so --

17                  MS. LEFF: I believe just looking  
18                  at my paperwork --

19                  CHAIRPERSON MILLER: Yes?

20                  MS. LEFF: -- that it was 2008, if  
21                  that helps --

22                  CHAIRPERSON MILLER: That helps.



1 MS. LEFF: -- one of the questions  
2 that you guys were --

3 CHAIRPERSON MILLER: So don't go  
4 away.

5 MS. LEFF: Okay.

6 CHAIRPERSON MILLER: Okay. As  
7 Chairperson of the Alcoholic Beverage Control  
8 Board for the District of Columbia and in  
9 accordance with Section 405 of the Open  
10 Meetings Amendment Act of 2010, I move that  
11 the ABC Board hold a closed meeting for the  
12 purpose of seeking legal advice from our  
13 counsel on Hunan Peking safekeeping case, per  
14 Section 405(b)(4) of the Open Meetings  
15 Amendment Act of 2010, and possibly  
16 deliberating upon this case for the reasons  
17 cited in Section 405(b)(13) of the Open  
18 Meetings Amendment Act of 2010.

19 Is there a second?

20 MEMBER BROOKS: Second.

21 CHAIRPERSON MILLER: I'll now take  
22 a roll call vote on the motion before us now

1       that it has been seconded.

2                   Mr. Brooks?

3                   MEMBER BROOKS: I agree.

4                   CHAIRPERSON MILLER: Mr. Alberti?

5                   MEMBER ALBERTI: I agree.

6                   CHAIRPERSON MILLER: Ms. Miller  
7 agrees.

8                   Mr. Silverstein?

9                   MEMBER SILVERSTEIN: I agree.

10                  CHAIRPERSON MILLER: Mr. Short?

11                  MEMBER SHORT: I agree.

12                  CHAIRPERSON MILLER: It appears  
13 that the motion has passed by a 5-0-0 vote.

14                  I hereby give notice that we will  
15 recess this proceeding briefly to hold a  
16 closed meeting in the ABC Board conference  
17 room pursuant to the Open Meetings Amendment  
18 Act of 2010.

19                  Okay. So we will return shortly.

20                  MS. LEFF: Okay.

21                  (Whereupon, the above-entitled  
22 matter went off the record at 10:39 a.m. and

1 resumed at 10:45 a.m.)

2 CHAIRPERSON MILLER: All right.  
3 I'm going to start since we have a quorum  
4 here. And we have already had our discussion  
5 back there and I want to tell you the results  
6 of that.

7 A few things. First of all, we  
8 have decided that you need to have within six  
9 months, the establishment, a transfer  
10 application filed with the Board unless you  
11 are selling your license or else it will be  
12 canceled.

13 But we also want to tell you that  
14 we have checked our records and the law and  
15 your establishment that we are speaking of is  
16 not in the Moratorium Zone, that there are  
17 certain parts of Georgetown that are exempted  
18 from it and yours is one of them. And we are  
19 sure.

20 MS. LEFF: Oh, that's my mistake.  
21 I'm sorry.

22 CHAIRPERSON MILLER: Right. So

1     that makes a difference though to you, because  
2     it means that you are not like holding on to  
3     something that is valuable, that there are a  
4     limited number of. The fact that it is  
5     exempted means if the license is canceled, you  
6     wouldn't be paying for it in safekeeping any  
7     more. And a restaurant could still go into  
8     that space, they would just have to apply for  
9     a new license. That they would have to go  
10    through the normal application process.

11                 And third, we wanted to say that  
12    the owner of the restaurant, I mean the owner  
13    of the property we understand that he is in  
14    Wyoming and couldn't be here, but if this ever  
15    happens again in the future, the owner should  
16    just notify our --

17                 MS. LEFF: Yes, I'm sorry.

18                 CHAIRPERSON MILLER: -- counsel.

19    Okay.

20                 MS. LEFF: You know, I do a lot  
21    with --

22                 CHAIRPERSON MILLER: We will

1       reschedule.

2                   MS. LEFF:  -- this stuff, so I  
3       think he -- sometimes we forget that there  
4       really is a distinction.

5                   CHAIRPERSON MILLER:  Okay.  Okay.  
6       Yes.  So there is a distinction here.

7                   MS. LEFF:  Yes.

8                   CHAIRPERSON MILLER:  So just in  
9       the future, if there is any other hearing --

10                  MS. LEFF:  Okay.

11                  CHAIRPERSON MILLER:  -- just let  
12       us know and we will reschedule.

13                  Okay.  So do you have any  
14       questions about what I just said?

15                  MS. LEFF:  No.  I think I  
16       understand it.  I assume that I'll get  
17       something in writing that details it very  
18       specifically, dates.

19                  CHAIRPERSON MILLER:  Yes, right.  
20       Those are the -- yes, absolutely.

21                  MS. LEFF:  Okay.

22                  MEMBER ALBERTI:  She will get a

1 letter from our General Counsel.

2 CHAIRPERSON MILLER: Yes,  
3 absolutely.

4 MS. LEFF: Okay.

5 CHAIRPERSON MILLER: Yes.

6 MS. LEFF: Thank you.

7 CHAIRPERSON MILLER: All right.  
8 Thank you very much.

9 (Whereupon, the Fact-Finding  
10 Hearing in the above-entitled matter was  
11 concluded at 10:48 a.m.)

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